Approved Code No. 84—Supplement No. 55 Registry No. 1127—01

NATIONAL RECOVERY ADMINISTRATION

SUPPLEMENTARY CODE OF FAIR COMPETITION

FOR THE

ARCHITECTURAL, ORNAMENTAL, AND MISCELLANEOUS IRON, BRONZE, WIRE, AND METAL SPECIALTIES MANUFACTURING INDUSTRY

(A Division of the Fabricated Metal Products Manufacturing and Metal Finishing and Metal Coating Industry)

AS APPROVED ON NOVEMBER 20, 1934

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Approved Code No. 84—Supplement No. 55

SUPPLEMENTARY CODE OF FAIR COMPETITION

FOR THE

ARCHITECTURAL, ORNAMENTAL, AND MISCELLANEOUS IRON, BRONZE, WIRE AND METAL SPECIALTIES MANUFACTURING INDUSTRY

As Approved on November 20, 1934

ORDER

APPROVING SUPPLEMENTARY CODE OF FAIR COMPETITION FOR THE ARCHITECTURAL, ORNAMENTAL, AND MISCELLANEOUS IRON, BRONZE, WIRE AND METAL SPECIALTIES MANUFACTURING INDUSTRY

A DIVISION OF THE FABRICATED METAL PRODUCTS MANUFACTURING AND METAL FINISHING AND METAL COATING INDUSTRY

An application having been duly made pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, and in accordance with the provisions of Section 1 of Article VI of the Basic Code for the Fabricated Metal Products Manufacturing and Metal Finishing and Metal Coating Industry, approved November 2, 1933, for approval of a Supplementary Code of Fair Competition for the Architectural, Ornamental, and Miscellaneous Iron, Bronze, Wire and Metal Specialities Manufacturing Industry; and hearing having been duly held thereon; and the annexed report on said Supplementary Code containing findings with respect thereto, having been made and directed to the President:

NOW, THEREFORE, on behalf of the President of the United States, the National Industrial Recovery Board pursuant to authority vested in it by Executive Orders of the President, including Executive Order No. 6859, and otherwise; does hereby incorporate by reference said annexed report and does find that said Supplementary Code complies in all respects with the pertinent provisions and will promote the policy and purposes of said Title of said Act, and does hereby order that said Supplementary Code of Fair Competition be and it is hereby approved.

NATIONAL INDUSTRIAL RECOVERY BOARD,
By W. A. HARRIMAN, *Administrative Officer.*

Approval recommended:

KILBOURNE JOHNSTON,
Acting Division Administrator.

WASHINGTON, D. C.,
November 20, 1934.

98500°——1325-74——34——1

REPORT TO THE PRESIDENT

The PRESIDENT,
The White House.

SIR: This is a report on the Supplementary Code of Fair Competition for the Architectural, Ornamental, and Miscellaneous Iron, Bronze, Wire and Metal Specialties Manufacturing Industry, a Division of the Fabricated Metal Products Manufacturing and Metal Finishing and Metal Coating Industry, the hearing having been conducted thereon in Washington, D. C., May 8, 1934, in accordance with the provisions of Title I of the National Industrial Recovery Act.

GENERAL STATEMENT

The Architectural, Ornamental, and Miscellaneous Iron, Bronze, Wire, and Metal Specialties Manufacturing Industry, being truly representative of this division of the Fabricated Metal Products Manufacturing and Metal Finishing and Metal Coating Industry, has elected to avail itself of the option of submitting a Supplementary Code of Fair Competition, as provided for in Section 1 of Article VI of the Basic Code, for the Fabricated Metal Products Manufacturing and Metal Finishing and Metal Coating Industry, approved by you on the Second day of November, 1933.

RÉSUMÉ OF THE CODE

Article I states the purpose of the Supplementary Code.

Article II accurately defines specific terms employed in the Supplementary Code.

Article III. This Industry is a division of the Fabricated Metal Products Manufacturing and Metal Finishing and Metal Coating Industry and the labor provisions of its Basic Code, as approved November 2, 1933, are the labor provisions of this Supplementary Code.

Article IV establishes a Supplementary Code Authority consisting of twenty-five (25) members to be elected by the members of the Industry at a meeting called by the Temporary Supplementary Code Authority, and gives the National Industrial Recovery Board the authority to appoint one additional member without vote and provides machinery for obtaining statistics and the administration of the Supplementary Code.

Article V provides for the formulation of an accounting system for determining allowable cost.

Article VI provides means for preventing destructive price cutting.

Article VII provides for the filing of prices for products of the Industry.

Article VIII sets forth the unfair trade practices of this Supplementary Code avoidance of which is especially designed to offset unfair competition in this division of the Industry.

Article IX contains the mandatory provisions contained in Section 10 (b) of the Act and also provides for the submission of proposed amendments to the Supplementary Code.

Article X provides against monopolies and monopolistic practices.

Article XI recognizes that price increases be limited to actual additional increases in the seller's costs.

Article XII states the effective date of this Supplementary Code.

FINDINGS

The Assistant Deputy Administrator in his final report to us on said Supplementary Code having found as herein set forth and on the basis of all the proceedings in this matter:

We find that:

(a) Said Supplementary Code is well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act, including removal of obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof and will provide for the general welfare by promoting the organization of industry for the purposes of cooperative action among the trade groups, by inducing and maintaining united action of labor and management under adequate governmental sanctions and supervision, by eliminating unfair competitive practices, by promoting the fullest possible utilization of the present productive capacity of industries, by avoiding undue restriction of production (except as may be temporarily required), by increasing the consumption of industrial and agricultural products through increasing purchasing power, by reducing and relieving unemployment, by improving standards of labor, and by otherwise rehabilitating industry.

(b) Said Industry normally employs not more than fifty thousand employees; and is not classified by us as a major Industry.

(c) The Supplementary Code as approved complies in all respects with the pertinent provisions of said Title of said Act, including without limitation Subsection (a) of Section 3, Subsection (a) of Section 7, and Subsection (b) of Section 10 thereof; and that the applicant group is an industrial group truly representative of the aforesaid Industry.

(d) The Supplementary Code is not designed to and will not permit monopolies or monopolistic practices.

(e) The Supplementary Code is not designed to and will not eliminate or oppress small enterprises and will not operate to discriminate against them.

(f) Those engaged in other steps of the economic process have not been deprived of the right to be heard prior to approval of said Supplementary Code.

For these reasons, therefore, We hereby recommend the approval of this Supplementary Code.

For The National Industrial Recovery Board:

W. A. Harriman,
Administrative Officer.

November 20, 1934

SUPPLEMENTARY CODE OF FAIR COMPETITION FOR THE ARCHITECTURAL, ORNAMENTAL, AND MISCELLANEOUS IRON, BRONZE, WIRE AND METAL SPECIALTIES MANUFACTURING INDUSTRY

A DIVISION OF THE FABRICATED METAL PRODUCTS MANUFACTURING AND METAL FINISHING AND METAL COATING INDUSTRY

Article I—Purposes

To effectuate the policies of Title I of the National Industrial Recovery Act, the following provisions are established as a Supplementary Code of Fair Competition for the Architectural, Ornamental, and Miscellaneous Iron, Bronze, Wire, and Metal Specialties Manufacturing Industry, pursuant to Article VI of the Basic Code of Fair Competition for the Fabricated Metal Products Manufacturing and Metal Finishing and Metal Coating Industry, approved by the President of the United States on the second day of November, 1933, and the provisions of this Supplementary Code shall be the standards of fair competition for the Architectural, Ornamental and Miscellaneous Iron, Bronze, Wire and Metal Specialties Manufacturing Industry and shall be binding upon every member thereof.

Article II—Definitions

Section 1. The term "The Architectural, Ornamental, and Miscellaneous Iron, Bronze, Wire, and Metal Specialties Manufacturing Industry" hereafter referred to as "The Industry", is defined to mean the manufacturing and processing for sale—as well as contracting for manufacturing, furnishing and/or installing, repairing, or servicing—of ferrous and non-ferrous metal products including aluminum, in or on any building or structure, but not including ferrous and non-ferrous metals becoming a part of the manufactured products of another industry, nor such functions of erection or installing as are subject to other codes which have been approved by the President or which may be so approved.

Section 2. The term "Member of the Industry" as used herein includes, but without limitation, any individual, partnership, association, corporation, or other form of enterprise engaged in the Industry, either as an employer or on his or its own behalf.

Section 3. The term "employee" as used herein includes any and all persons engaged in the industry, however compensated, except a member of the Industry.

Section 4. The term "employer" as used herein includes anyone by whom such employee is compensated or employed.

Section 5. The terms "Act" and "National Industrial Recovery Board" as used herein mean respectively, Title I of the National

Industrial Recovery Act, and the National Industrial Recovery Board.

SECTION 6. The term "President" as used herein means the President of the United States.

SECTION 7. The term "Basic Code" as used herein means the Basic Code of Fair Competition for the Fabricated Metal Products Manufacturing and Metal Finishing and Metal Coating Industry, approved by the President of the United States on the 2nd day of November, 1933.

SECTION 8. The term "Supplementary Code Authority" as used herein shall mean the agency which is to administer this Supplementary Code, as hereinafter provided.

SECTION 9. The term "Supplementary Code Committee" as used herein is defined to mean the Committee elected by the Thirty-three (33) Associations and trade groups submitting this Supplementary Code.

SECTION 10. The term "District" as used herein shall mean one of the twelve (12) Federal Reserve Districts.

SECTION 11. The term "Regional Code Authority" as used herein shall mean that administrative body which is set up in accordance with the provisions of subsection (d) of Section 1 of Article IV of this Supplementary Code.

ARTICLE III—EMPLOYMENT PROVISIONS

The Industry is a division of the Fabricated Metal Products Manufacturing and Metal Finishing and Metal Coating Industry, and without limitation the wage, hour, and labor provisions in Article III of its basic code as approved by the President, November 2, 1933, including Section I of said Article III by which the provisions of Subsections (1), (2) and (3) of Section 7 (a) of Title I of the Act are made conditions of this Supplementary Code, are specifically incorporated herein and made a part hereof as the wage, hour, and labor provisions of this Supplementary Code.

ARTICLE IV—ORGANIZATION AND ADMINISTRATION

SECTION 1. During the period not to exceed sixty (60) days following the effective date of this Supplementary Code, the Supplementary Code Committee shall constitute a temporary Supplementary Code Authority until the Supplementary Code Authority is elected. There shall be constituted within the sixty (60) day period a Supplementary Code Authority consisting of twenty-five (25) members to be nominated and elected by the members of the Industry at a meeting or meetings called by the temporary Supplementary Code Authority, upon fifteen days' notice sent by registered mail to all members of the Industry, whose names may be ascertained after diligent search, who may vote either in person or by proxy or by letter ballot. The members of the Supplementary Code Authority first elected shall serve until the following annual meeting of the members of the Industry or until their successors shall have been elected and, thereafter, members of the Supplementary Code Authority shall be elected at each annual meeting. The members of the

Supplementary Code Authority shall be elected in the following manner:

(a) Four members, one of whom shall be a manufacturer of iron work, one of bronze work, one of wire work and one of metal specialties, who shall be members of the Industry, to be nominated and elected by a majority vote of all members of the Industry present in person or by proxy or by letter ballot, each member to have one vote.

(b) Four members, one of whom shall be a manufacturer of iron work, one of bronze work, one of wire work and one of metal specialties, who shall be members of the Industry to be nominated and elected by a majority vote of all members of the Industry present in person, or by proxy, or by letter ballot weighted on the following basis:

(1) One vote for each member of the Industry and one additional vote thereto for each $25,000.00 of annual net sales covering the products of the Industry in the previous calendar year reported to the Supplementary Code Authority; provided, however, that no one member may cast more than fifteen (15) per cent of the total number of votes cast.

(c) One member, who is a member of the Industry and a non-member of any Association or Trade Group, to be nominated and elected by a majority vote of all members of the Industry present in person, or by proxy, or by letter ballot who are non-members of any Association or Trade Group, each non-member to have one vote.

(d) Sixteen members who shall be members of the Industry to be elected as follows:

(1) The United States, including Puerto Rico, Alaska and Hawaii shall be divided into twelve Districts, such divisions to conform with the twelve Federal Reserve Districts as now constituted, and the sixteen members shall be selected from such Districts, each District to have one member except Districts 2, 3, 4 and 7 which shall have two members each and no more. The members from the respective Districts shall be chosen in the following manner:

(2) Within sixty days after the effective date of this Supplementary Code, the temporary Supplementary Code Authority shall charge a particular member or group of members of the Industry located and operating in the particular Federal Reserve District with the duty of calling a meeting of the members of the Industry located and operating in such District, such meeting to be held in accordance with the provisions of Section 1 hereof as to notice, and at such District meeting the members of the Industry shall nominate and elect a member of the Industry who shall be their representative on the Supplementary Code Authority, provided that the number of members to be nominated and elected in Districts 2, 3, 4 and 7 shall be two.

(3) In addition, the members of the Industry at each District meeting shall elect a Regional Code Authority consisting of four members, one of whom shall be a manufacturer of bronze work, one of wire work, one of iron work and one of metal specialties, provided there are such manufacturers located and operating in the particular District. The member of each Supplementary Code Authority elected at the District meeting shall be an ex-officio member and Chairman of the Regional Code Authority except in Districts

2, 3, 4 and 7; the member securing the largest number of votes in each of these Districts shall be declared the ex-officio member and Chairman of the Regional Code Authority. At such District meetings all member of the Industry, present in person or by proxy or letter ballot, shall be entitled to vote, which vote shall be weighted as follows:

(4) One vote for each member of the Industry and one vote additional thereto for each $25,000 of annual net sales for the previous calendar year reported to the temporary Supplementary Code Authority or to the particular member or group of members of the Industry charged with the conduct of the District Industry meetings: provided, however, that no one member may cast more than fifteen per cent of the total number of votes cast. Thereafter, the members of the Supplementary Code Authority and the Regional Code Authorities as required by this Subsection (d) shall be elected at annual meetings of the members of the Industry in the particular Districts in accordance with the provisions of this subsection.

(5) In the event the Non-Association of Trade Group members fail to elect the member of the Supplementary Code Authority as required in Subsection (c) of this Section, the Supplementary Code Authority, as at the time constituted, shall submit to the National Industrial Recovery Board the names of five such members of the Industry and the National Industrial Recovery Board shall appoint the Non-Association member of the Supplementary Code Authority from such submitted list.

(6) In the event any or all of the members of the Industry located in any or all of the Geographical Districts mentioned in Subsection (d) of this Section fail to elect their representative on the Supplementary Code Authority and their Regional Code Authority, the Supplementary Code Authority, as at that time constituted, shall submit a list of five names of members of the Industry located and operating in the particular District to the National Industrial Recovery Board and the National Industrial Recovery Board shall select from such submitted list the allotted number of members of the Industry to represent the particular District on the Supplementary Code Authority. In addition, the Supplementary Code Authority, as at that time constituted, shall appoint the Regional Code Authority of four members of the Industry located and operating in the particular District, which Regional Code Authority shall be constituted the same as though specifically elected by the members of the Industry in the particular District.

(7) A vacancy occurring in the Supplementary Code Authority shall be filled by a majority vote of the remaining members of the Supplementary Code Authority; provided, however, that the vacancy to be filled shall be subject to the classifications of membership both Geographical and Industrial as set forth in Subsections (a), (b), (c) and (d) of this Section.

(8) A vacancy occurring in any Regional Code Authority shall be filled by a majority vote of the remaining members of the Regional Code Authority; provided, however, that the vacancy to be filled shall be subject to the classifications of membership as set forth in paragraph (3) of subsection (d) of this Section.

98500°——1325–74——34——2

(9) In addition to the members provided for above, the National Industrial Recovery Board may appoint a member of the Supplementary Code Authority to be known as the Administration Member, who shall serve without vote and without expense to the Industry. The Administration Member together with the National Industrial Recovery Board shall receive notice of and may attend all meetings of the Supplementary Code Authority and/or the Regional Code Authority.

SECTION 2. Any trade association directly or indirectly participating in the selection or activities of the Supplementary Code Authority shall (1) impose no inequitable restrictions on membership, and (2) submit to the National Industrial Recovery Board true copies of its Articles of Association, By-Laws, Regulations, and any amendments when made thereto, together with such other information as to membership, organization, and activities as the National Industrial Recovery Board may deem necessary to effectuate the purposes of the Act.

SECTION 3. In order that the Supplementary Code Authority shall, at all times, be truly representative of the Industry and in other respects comply with the provisions of the Act, the National Industrial Recovery Board may prescribe such Hearings as it may deem proper; and, thereafter, if it shall find that the Supplementary Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, may require removal of any or all of the members thereof and may make an appropriate modification of modifications of the Supplementary Code Authority.

SECTION 4. (a) It being found necessary in order to support the administration of this Supplementary Code and to maintain the standards of fair competition established hereunder and to effectuate the policy of the Act, the Supplementary Code Authority is authorized:

(1) To incur such reasonable obligations as are necessary and proper for the foregoing purposes, and to meet such obligations out of funds which may be raised as hereinafter provided and which shall be held in trust for the purposes of the Supplementary Code;

(2) To submit to the National Industrial Recovery Board for its approval subject to such notice and opportunity to be heard as it may deem necessary (1) an itemized budget of its estimated expenses for the foregoing purposes, and (2) an equitable basis upon which the funds necessary to support such budget shall be contributed by members of the Industry;

(a) After such budget and basis of contribution have been approved by the National Industrial Recovery Board, to determine and obtain equitable contribution as above set forth by all members of the Industry, and to that end, if necessary, to institute legal proceedings therefor in its own name.

(b) Each member of the Industry shall pay his or its equitable contribution to the expenses of the maintenance of the Supplementary Code Authority, determined as hereinabove provided, and subject to rules and regulations pertaining thereto issued by the National Industrial Recovery Board. Only members of the Industry complying with the Code and contributing to the expenses of its administration as hereinabove provided, unless duly exempted from making such

contributions, shall be entitled to participate in the selection of members of the Supplementary Code Authority or to receive the benefits of any of its voluntary activities or to make use of any emblem or insignia of the National Recovery Administration.

(c) The Supplementary Code Authority shall neither incur nor pay any obligation substantially in excess of the amount thereof as estimated in its approved budget; and shall in no event exceed the total amount contained in the approved budget, except upon approval of the National Industrial Recovery Board; and no subsequent budget shall contain any deficiency item for expenditures in excess of prior budget estimates except those which the National Industrial Recovery Board shall have so approved.

SECTION 5. Nothing contained in this Supplementary Code shall constitute the members of the Supplementary Code Authority partners for any purpose. Nor shall any members of the Supplementary Code Authority be liable in any manner to anyone for any act of any other member, officer, agent or employee of the Supplementary Code Authority. Nor shall any member of the Supplementary Code Authority, exercising reasonable diligence in the conduct of his duties hereunder, be liable to anyone for any action or omission to act under this Supplementary Code, except for his own willful malfeasance or non-feasance.

SECTION 6. The Supplementary Code Authority shall also from time to time furnish to the Basic Code Authority, designated in said Basic Code, such information as may be required to be furnished under the terms of said Basic Code.

SECTION 7. The Supplementary Code Authority shall have the following further powers and duties:

(a) Subject to such rules and regulations as the National Industrial Recovery Board may prescribe it shall have such power as is necessary to administer and insure the execution of the provisions of this Supplementary Code and provide for the compliance of the Industry with the provisions of the Act.

(b) To adopt such by-laws, rules, and regulations as are necessary for its procedure and for the administration of this Supplementary Code.

(c) To obtain from members of the Industry such information and reports as are required for the administration of the Supplementary Code. In addition to information required to be submitted to the Supplementary Code Authority, members of the Industry subject to this Supplementary Code shall furnish such statistical information as the National Industrial Recovery Board may deem necessary for the purposes recited in Section 3(a) of the Act to such Federal and State agencies as he may designate; provided that nothing in this Supplementary Code shall relieve any member of the Industry of any existing obligations to furnish reports to any Government agency. No individual report shall be disclosed to any other member of the Industry or any other party except to such other Governmental agencies as may be directed by the National Industrial Recovery Board.

(d) To appoint within one month after the effective date of this Supplementary Code a Committee so constituted as to give Consumer and Governmental representation satisfactory to the National Industrial Recovery Board; to make a study with a view to the establish-

ment of classifications and standards of size, quality and/or performance of staple products of the Industry wherever such standards are deemed feasible.

The findings and recommendations of this Committee shall be submitted to the National Industrial Recovery Board within six (6) months after the effective date of this Supplementary Code and after such hearings and investigation as it may designate and upon approval by it shall be made a part of this Supplementary Code and be binding upon each member.

(e) To make recommendations to the National Industrial Recovery Board for the coordination of the Administration of this Supplementary Code with such other codes, if any, as may be related to or affect the members of the Industry.

(f) To appoint a trade practice committee which shall meet with the trade practice committees appointed under such other codes as may be related to the Industry for the purpose of formulating fair trade practices to govern the relationships between production and distribution employers under this Supplementary Code and under such others to the end that such fair trade practices may be proposed to the National Industrial Recovery Board as amendments to this Supplementary Code and such other codes.

(g) To delegate to the various Regional Supplementary Code Authorities such of its powers and duties as it may prescribe or designate, provided, however, that such delegation shall not relieve the Supplementary Code Authority of its duties or responsibilities, and that it shall apply to the exercise of the powers and duties of the Supplementary Code Authority only in the particular District.

(h) To authorize and empower Regional Code Authorities, or other such Agencies as it may designate, to install a method of checking quantity computations before the opening of competitive bids and competitive bids after the opening of such bids and when such authorization is granted to require such Regional Code Authority or Agency to designate a depository, or to use such other method as may be approved by the Supplementary Code Authority.

(i) To use such trade associations and/or other agencies as it deems proper for the carrying out of any of its activities provided for herein provided that nothing herein shall relieve the Supplementary Code Authority of its duties or responsibilities under this Supplementary Code, and that such trade associations and agencies shall at all times be subject to and comply with the provisions hereof.

Section 8. If the National Industrial Recovery Board believes that any action of the Supplementary Code Authority or any agency thereof is unfair or unjust or contrary to the public interest, the National Industrial Recovery Board may require that such action be suspended to afford an opportunity for investigation of the merits of such action. Further action by such Supplementary Code Authority or agency regarding the matter complained of may be taken if approved by the National Industrial Recovery Board within thirty days of notice to it of intention to proceed with such action.

Section 9. Every employer shall provide for the safety and health of employees during the hours and at the places of their employment. Standards for safety and health shall be submitted by the Supplementary Code Authority to the National Industrial Recovery

Board within three monthes after the effective date of the Supplementary Code.

Article V—Cost Finding and Accounting

Section 1. *Cost Finding.*—The Supplementary Code Authority shall cause to be formulated methods of cost finding and accounting capable of use by all members of the Industry, and shall submit such methods to the National Industrial Recovery Board for review. If approved by the National Industrial Recovery Board, full information concerning such methods shall be made available to all members of the Industry. Thereafter, each member of the Industry shall utilize such methods to the extent found practicable. Nothing herein contained shall be construed to permit the Supplementary Code Authority, any agent thereof, or any member of the Industry to suggest uniform additions, percentages or differentials or other uniform items of cost which are designed to bring about arbitrary uniformity of costs or prices.

Article VI—Cost and Price Cutting

Section 1. The standards of fair competition for the Industry with reference to pricing practices are declared to be as follows:

(a) Wilfully destructive price cutting is an unfair method of competition and is forbidden. Any member of the Industry or of any other industry or the customers of either may at any time complain to the Supplementary Code Authority that any filed price constitutes unfair competition as destructive price cutting, imperiling small enterprise or tending toward monopoly or the impairment of code wages and working conditions. The Supplementary Code Authority shall within five (5) days afford an opportunity to the member filing the price to answer such complaint and shall within fourteen (14) days make a ruling or adjustment thereon. If such ruling is not concurred in by either party to the complaint, all papers shall be referred to the Research and Planning Division of the National Recovery Administration which shall render a report and recommendation thereon to the National Industrial Recovery Board.

(b) When no declared emergency exists as to any given product, there is to be no fixed minimum basis for prices. It is intended that sound cost estimating methods should be used and that consideration should be given to costs in the determination of pricing policies.

(c) When an emergency exists as to any given product, sales below the stated minimum price of such product, in violation of Section 2 hereof, is forbidden.

Section 2. *Emergency Provisions.*—(a) If the National Industrial Recovery Board, after investigation, shall at any time find both (1) that an emergency has arisen within the Industry adversely affecting small enterprises or wages or labor conditions, or tending toward monopoly or other acute conditions which tend to defeat the purposes of the Act; and (2) that the determination of the stated minimum price for a specified product within the Industry for a limited period is necessary to mitigate the conditions constituting such

emergency and to effectuate the purposes of the Act, the Supplementary Code Authority may cause an impartial agency to investigate costs and to recommend to the National Industrial Recovery Board a determination of the stated minimum price of the product affected by the emergency and thereupon the National Industrial Recovery Board may proceed to determine such stated minimum price.

(b) When the National Industrial Recovery Board shall have determined such stated minimum price for a specified product for a stated period, which price shall be reasonably calculated to mitigate the conditions of such emergency and to effectuate the purposes of the National Industrial Recovery Act, it shall publish such price. Thereafter, during such stated period, no member of the Industry shall sell such specified products at a net realized price below said stated minimum price and any such sale shall be deemed destructive price cutting. From time to time, the Supplementary Code Authority may recomend review or reconsideration or the National Industrial Recovery Board may cause any determinations hereunder to be reviewed or reconsidered and appropriate action taken.

Article VII—Open Price

Section 1. Each member of the Industry shall file with a confidential and disinterested agent of the Supplementary Code Authority or, if none, then with such an agent designated by the National Industrial Recovery Board, identified lists of all of his prices, discounts, rebates, allowances, and all other terms or conditions of sale, hereinafter in this Article referred to as "price terms", which lists shall completely and accurately conform to and represent the individual pricing practices of said member. Such lists shall contain the price terms for all such standard products of the Industry as are sold or offered for sale by said member and for such nonstandard products of said member as shall be designated by the Supplementary Code Authority. Said price terms shall in the first instance be filed within forty-five (45) days after the effective date of this Supplementary Code. Price terms and revised price terms shall become effective immediately upon receipt thereof by said agent. Immediately upon receipt thereof, said agent shall by telegraph or other equally prompt means, notify said member of the time of such receipt. Such lists and revisions, together with the effective time thereof, shall upon receipt be immediately and simultaneously distributed to all members of the Industry and to all of their customers who have applied therefor and have offered to defray the cost actually incurred by the Supplementary Code Authority in the preparation and distribution thereof and be available for inspection by any of their customers at the office of such agent. Said lists or revisions or any part thereof shall not be made available to any person until released to all members of the Industry and their customers, as aforesaid; provided, that prices filed in the first instance shall not be released until the expiration of the aforesaid forty-five (45) day period after the effective date of this Supplementary Code. The Supplementary Code Authority shall maintain a permanent file of all price terms filed as herein provided, and

shall not destroy any part of such records except upon written consent of the National Industrial Recovery Board. Upon request, the Supplementary Code Authority shall furnish to the National Industrial Recovery Board or any duly designated agent of the National Industrial Recovery Board copies of any such lists or revisions of price terms.

SECTION 2. When any member of the Industry has filed any revision, such member shall not file a higher price within forty-eight (48) hours.

SECTION 3. No member of the Industry shall sell or offer to sell any products/services of the Industry, for which price terms have been filed pursuant to the provisions of this Article, except in accordance with such price terms.

SECTION 4. No member of the Industry shall enter into any agreement, understanding, combination or conspiracy to fix or maintain price terms, nor cause or attempt to cause any member of the Industry to change his price terms by the use of intimidation, coercion, or any other influence inconsistent with the maintenance of the free and open market which it is the purpose of this Article to create.

ARTICLE VIII—UNFAIR TRADE PRACTICES

In addition to the unfair trade practices covered by Sections B, C, D, E, F, and G of Article V of the Basic Code which are made a part hereof, the same as though herein repeated and set forth at length, the following described acts shall constitute unfair practices, provided, however, that if any of the unfair trade practices of the Basic Code conflict with any of the unfair trade practices of this Supplementary Code the latter shall supersede and prevail.

SECTION 1. *Use of Other Than New Material.*—No member of the Industry shall sell or offer to sell any products of the Industry made from any but new material unless the member of the Industry indicates to the purchaser or prospective purchaser the facts regarding the materials used in the products.

SECTION 2. *Inducing Breach of Existing Contracts.*—No member of the Industry shall wilfully induce or attempt to induce the breach of existing contracts between his competitors and their customers by any false or deceptive means, or interfere with or obstruct the performance of any such contractual duties or services by any such means with the purpose and effect of hampering, injuring or embarrassing competitors in their business.

SECTION 3. *Giving of Prizes, Premiums or Gifts.*—No member of the industry shall offer or give prizes, premiums or gifts in connection with the sale of products or as an inducement thereto by any scheme which involves lottery, misrepresentation or fraud.

SECTION 4. *Threats of Law Suits.*—No member of the Industry shall publish or circulate unjustified or unwarranted threats of legal proceedings which tend to or have the effect of harrassing competitors or intimidating their customers.

SECTION 5. *Espionage of Competitors.*—No member of the Industry shall secure confidential information concerning the business of a competitor by a false or misleading statement or representation, by a false impersonation of one in authority, by bribery, or by any other unfair method.

SECTION 6. *Responsibility of Bidder.*—No member of the Industry shall submit a bid which fails to include a provision to the effect that such bid shall not be binding on the bidder unless a contract covering the subject matter of the bid is signed within thirty (30) days after the bid is submitted (or opened in the case of sealed bids) subject, however, to provisions of any existing State or Federal law relating to the submission or opening of bids.

SECTION 7. *Substitutions and Methods of Manufacture.*—No member of the Industry shall use inferior methods of manufacture and installation or use or substitute materials and/or products inferior in quality to those specified by the purchaser without the consent of the purchaser thereto. Provided, further, that every member of the Industry shall comply with all Federal, State and Local Building Laws, Rules and Regulations regarding methods of manufacture or installation and/or quality requirements.

SECTION 8. *Bids.*—No member of the Industry shall submit a competitive bid except in writing and signed by himself or his authorized representative. All competitive bids on which a closing date has been set shall be enclosed in a sealed envelope, on the outside of which shall appear its identification as a bid for a particular job. Bids shall be tendered only in response to an invitation from a general contractor, subcontractor, architect, owner, builder or other agent. It shall be obligatory for each bidder to state in his bid what portion of the work covered by his bid will be furnished only, and, also, what portions will be installed only, and what portions will be furnished and installed, and/or all other conditions of sale.

SECTION 9. *Wilful Omissions.*—No member of the Industry shall wilfully omit in bids items of material and/or work called for by the plans and specifications or schedules, unless he shall mention in his bid whether certain work is or is not to be furnished and/or erected for the price submitted.

SECTION 10. *Revised Bids.*—No member of the Industry shall submit a revised bid on any work covering the products of this Industry after the closing time set for receiving bids.

SECTION 11. *Changes.*—No member of the Industry shall reduce a bid without changes in the specifications and/or plans justifying the same.

SECTION 12. *Collusion.*—No member of the Industry shall, prior to the opening of bids, induce or attempt to induce an architect, owner, contractor, builder, or other agent to reveal any information relative to bids already received.

SECTION 13. *Conspiring.*—No member of the Industry shall aid or abet any person in a violation of any of the provisions of this Supplementary Code.

SECTION 14. *Bidding Practices.*—No member of the Industry shall, in any manner, engage in or be a party to the unfair practice known throughout the Industry as "bid Peddling" or "bid shopping."

(a) Bid peddling in effect means the offering by the bidder prior to the making of an award of a substitute bid or price lower than the one originally bid without a commensurate decrease in the requirements of the job. The correction of the abuses resulting from such practice is obtainable by regulation restricting or controlling bidders.

(b) Bid shopping in effect means the effort on the part of the awarding authority to induce a bidder prior to the making of the award to lower his original bid price without a commensurate decrease in the requirements of the job.

SECTION 15. *Prohibited Agreements.*—No member of the Industry shall enter into any agreement or understanding prior to the award of a contract where such award is made as a result of competitive bidding, by which agreement or understanding he agrees to accept a lesser amount for his product and/or services than the amount stated in his bid.

SECTION 16. *Estimate Records.*—No member of the Industry shall submit an estimate or bid without keeping an accurate record of the estimated items and quantities, as well as costs of material and labor pertaining to each item, nor shall he submit a bill for his services without retaining a similar record.

(a) Each member of the Industry shall submit to the Supplementary Code Authority or such Confidential Agent as it may designate such records when called upon so to do for the purpose of investigating a specific complaint.

SECTION 17. *Bidding on Competitors' Design.*—No member of the Industry shall knowingly bid on designs, plans and/or specifications submitted to a prospective customer by a competitor without the consent of the individual and/or company originating said designs, plans and/or specifications, unless the prospective customer has paid the cost of such designs, plans and/or specifications to the individual and/or company originating same.

SECTION 18. "*Lumping*" *of Labor.*—No member of the Industry shall contract with his employees on a lumping basis for the manufacture, processing and/or installing of the products of the Industry, unless such contract provides for the payment of at least the minimum wage and compliance with the labor provisions of Article III of this Supplementary Code."

SECTION 19. *Terms of Payment.*—No member of the Industry shall accept, or offer to accept any contract or order providing terms of payment more favorable than the following:

On all products produced specially for a given building project ninety per cent (90%) of the value of any material, labor and/or service furnished, delivered and/or installed during the preceding calendar month shall be due and payable on the fifteenth (15th) day of each month following such furnishing, delivering and/or installing and that the balance shall be due and payable within, and not later than thirty (30) days after completion of the contract or order, provided, however, that the retained percentage shall at no time exceed double the value of the material, labor or service remaining to be furnished.

Interest shall be charged on over due accounts at the maximum legal rate.

ARTICLE IX—MODIFICATIONS

SECTION 1. This Supplementary Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with provisions of subsection (b) of Section 10 of the Act, from time to time to cancel or modify any order, approval, license, rule, or regulation issued under Title I of said Act.

SECTION 2. Such of the provisions of this Supplementary Code as are not required to be included herein by the Act may, with the approval of the National Industrial Recovery Board, be modified or eliminated in such manner as may be indicated by the needs of the public, by changes in circumstances, or by experience. All the provisions of this Supplementary Code, unless so modified or eliminated, shall remain in effect until June 16, 1935.

ARTICLE X—MONOPOLIES, ETC.

No provision of this Supplementary Code shall be so applied as to permit monopolies or monopolistic practices, or to eliminate, oppress, or discriminate against small enterprise.

ARTICLE XI—PRICE INCREASES

Whereas the policy of the Act to increase real purchasing power will be made more difficult of consummation if prices of goods and services increase as rapidly as wages, it is recognized that price increases except such as may be required to meet individual costs should be delayed, and when made, such increases should, so far as possible, be limited to actual additional increases in the seller's costs.

ARTICLE XII—EFFECTIVE DATE

This Supplementary Code shall become effective on the 10th day after its approval by the President.

Approved Code No. 84.—Supplement No. 55.
Registry No. 1127–01.

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